IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION Nos.2719 and 2720 of 2005

Writ Petition No.2719 of 2005

-

Between:

B. Jayaram Reddy , S/o. Late Yerram Reddy,
R/o. Padmavathi Puram, Tiruchanur Road, Tirupati, Chittoor District.

...PETITIONER

AND

1. The State of Andhra Pradesh, rep.by its Principal Secretary (Home) Department, Secretariat, A.P., Hyderabad.
2. The Deputy Superintendent of Police, Tirupati Division, Chittoor District.
3. The Circle Inspector, Tirupati (Rural), Tirupati, Chittoor District.
4. The Station House Officer, Tiruchanoor Police Station, Tirupati, Chittoor District.
5. The Mandal Revenue Officer, Tirupati Rural Mandal, Chittoor District.

(R5 is impleaded as per Court order dated 03.03.2005 in W.P.M.P.No.4873 of 2005)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction, order or orders more particularly one in the nature of writ of Mandamus calling for the records pertaining to Crime No. 151 of 2004 dated 13.10.2004 on the file of Tiruchanur P.S.. Tirupati, Chittoor District and consequentially set-aside the same.

Counsel for the Petitioner: MR.A.CHANDRAIH NAIDU

Counsel for the Respondents: GP FOR HOME

WRIT PETITION NO.2720 of 2005

Between:

1. S.Satyanarayana Sarma, S/o.Ramanatha sarma, Hindu, 70 years, R/o.Tirupati, Chittoor District.

2. S.Ranganadha sarma, S/o.Ramanatha sarma, Hindu, 65 years, R/o.Tirupati, Chittoor District.

...PETITIONERS

AND

1. The State of Andhra Pradesh, rep.by its Principal secretary (Home) Department, Secretariat, A.P., Hyderabad.

2. The Deputy Superintendent of Police, Tirupati Division, Chittoor District.

3. The Circle Inspector, Tirupati (Rural), Tirupati, Chittoor District.

4. The Station House Officer, Tiruchanoor Police Station, Tirupati, Chittoor District.

5. The Mandal Revenue Officer, Tirupati Rural Mandal, Chittoor District.

(R5 is impleaded as per Court order dated 03.03.2005 in W.P.M.P.No.4874 of 2005)

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, direction, order or orders more particularly one in the nature of writ of Mandamus calling for the records pertaining to Crime No.151 of 2004 on the file of Tiruchanur P.S., Tirupati, Chittoor District and consequentially set aside the same.

Counsel for the Petitioner: MR.A.CHANDRAIH NAIDU

Counsel for the Respondents: GP FOR HOME

The Court made the following:

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NOs.2719 and 2720 of 2005

COMMON ORDER:

Since the issue is one and the same in both the Writ Petitions, they are disposed of by this common order.

The petitioners seek a Writ of Mandamus calling for records pertaining to Crime No.151 of 2004 of Tiruchanur Police Station, Tirupati, Chittoor District and to set aside the same.

The respondent Nos.2 to 4 filed detailed counter-affidavits,

inter alia, stating that there were long drawn civil litigations about certain lands in Avilala Village near Tirupati.

Be that as it may, the fifth respondent-Mandal Revenue Officer, lodged a complaint upon the instructions of the Collector, Chittoor to initiate criminal proceedings against the petitioners in respect of the lands situated in Survey No.377 of Avilala Village. Basing on the said complaint, a case was registered in crime No.151 of 2004 for the offences under Sections 420, 468, 471, 474 IPC and under Sections 4 and 5 of the A.P.Land Grabbing (Prohibition) Act, 1982 read with 34 IPC, on the file of the fourth respondent on 13.10.2004 and the investigation was also taken up. In the said process of investigation, the complainant and certain other witnesses including the revenue officials were examined and their statements were recorded. It is further stated in the counter-affidavits that some more witnesses have to be examined for completion of the investigation. Since the investigation is to be elaborately conducted, some more time is required for completing the investigation. Therefore, it is stated that it is not the stage to quash the FIR No.151 of 2004.

It is further informed that the petitioner in W.P.No.2719 of 2005 was also involved in crime No.63 of 1997 of Tiruchanur Police Station for the offences under Sections 447 and 420 IPC and in crime No.20 of 1999 Tiruchanur Police Station for the offences under Sections 447, 427 and 324 read with 34 IPC. It is further stated that it is only on the complaint given by the Mandal Revenue Officer in view of the

huge civil litigation regarding the lands situated at Avilala village, the investigation in crime No.151 of 2004 has been initiated and the investigation is under active progress. Hence, I do not find any justifiable reason to quash the

crime No.151 of 2004 at this stage.

No doubt, this Court can exercise its jurisdiction under Article 226 of the Constitution of India and go into the factual position of the case to the extent relevant, if necessary, and if it is found that absolutely no case made out in the FIR, the same can be quashed. In the present case, it is not in dispute that not only the petitioners, but some others were also involved in Crime No.151 of 2004. Segregation of the case against the petitioners is very difficult at this stage of investigation itself and hence, it is not proper to this Court to interfere at this stage as sought by the petitioners.

Accordingly, the two Writ Petitions are dismissed with costs of Rs.1,000/- (Rupees one thousand).

-

-

_____

(D.S.R.VARMA, J)

3rd March 2005

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Principal Secretary (Home) Department, The State of Andhra Pradesh, Secretariat, A.P., Hyderabad.
2. The Deputy Superintendent of Police, Tirupati Division, Chittoor District.
3. The Circle Inspector, Tirupati (Rural), Tirupati, Chittoor District.

4. The Station House Officer, Tiruchanoor Police Station, Tirupati, Chittoor District.

5. Two CCs to G.P. for Home, High Court Buildings, Hyderabad (OUT).

6. The Mandal Revenue Officer, Tirupati Rural Mandal, Chittoor District.

7. Two CD copies.